

# **Exhibit D**



**U.S. Department of Justice**  
Office of Information Policy  
Suite 11050  
1425 New York Avenue, NW  
Washington, DC 20530-0001

Telephone: (202) 514-3642

Mr. Tom Winter  
NBC News Investigations  
Room 478E-10  
30 Rockefeller Plaza  
New York, NY 10112  
[Tom.winter@nbc.com](mailto:Tom.winter@nbc.com)

Re: Appeal No. DOJ-AP-2019-001363  
Request No. DOJ-2018-008546 (AG)  
SRO:JNW

**VIA: FOIAOnline**

Dear Mr. Winter:

This is to advise you that your administrative appeal from the action of the Initial Request Staff (IR Staff) of the Office of Information Policy, acting on behalf of the Office of the Attorney General, was received in this Office on December 10, 2018. You appealed from the IR Staff's denial of your request for expedited treatment of your Freedom of Information Act request.

In your appeal letter, you assert that your request is entitled to expedited treatment pursuant to the second standard enumerated in the Department of Justice's regulations. Under the second standard, you must show that there is "[a]n urgency to inform the public about an actual or alleged Federal Government activity, if made by a person primarily engaged in disseminating information." 5 U.S.C. § 552(a)(6)(E)(v)(II). See also 28 C.F.R. § 16.5(e)(1)(ii) (2018).

In deciding whether you have demonstrated that there is an "urgency to inform the public" under 28 C.F.R. § 16.5(e)(1)(ii) (2018), I considered three factors: "(1) whether the request concerns a matter of current exigency to the American public; (2) whether the consequences of delaying a response would compromise a significant recognized interest; and (3) whether the request concerns federal government activity." Al-Fayed v. CIA, 254 F.3d 300, 310 (D.C. Cir. 2001). Although your request concerns a federal government activity, and you are primary engaged in information dissemination, you have not established that the requested records are a matter of current exigency to the American public, nor that delaying a response would compromise a significant recognized interest. You have requested records that may or may not concern the topic identified in your appeal regarding Dmytro Firtash's extradition and lobbying efforts. You have not demonstrated a time-sensitive, urgent need to receive these records. While the subject of your request may be newsworthy, that alone is not sufficient for expedited processing.

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Please be advised that this Office's decision was made only after a full review of this matter. Your appeal was assigned to an attorney with this Office who thoroughly reviewed and analyzed your appeal, your underlying request for expedited processing, and the action of the IR Staff in response to your request.

If you are dissatisfied with my action on your appeal for expedited treatment of your request, you may file a lawsuit in accordance with 5 U.S.C. § 552(a)(6)(E)(iii).

For your information, the Office of Government Information Services (OGIS) offers mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001; email at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769. If you have any questions regarding the action this Office has taken on your appeal, you may contact this Office's FOIA Public Liaison for your appeal. Specifically, you may speak with the undersigned agency official by calling (202) 514-3642.

Sincerely,

12/13/2018

X 

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Sean R. O'Neill  
Chief, Administrative Appeals Staff  
Signed by: OIP